

Appl. No. 10/810,904  
Amdt. dated January 2, 2008  
Reply to Office Action of October 2, 2007

PATENT

### REMARKS/ARGUMENTS

#### The Invention

The invention relates to polypeptides having PhzO activity which are encoded by nucleic acids of defined structure.

#### Status of the Claims

Claims 8 and 9 are rejected under 35 U.S.C §112, First Paragraph.

Claims 8 and 9 are rejected under 35 U.S.C §112, Second Paragraph.

Claim 8 is objected to.

#### Amendments to the Claims

Claims 8 and 9 are amended to expedite prosecution of the application. No new matter is added.

#### Support for the Claim Amendments

Support for the amendment to Claim 8 to recite: "the ability to convert phenazine-1-carboxylic acid to at least one 2-hydroxylated phenazine" as PhzO activity, is found throughout the specification e.g., at paragraph [0109]. No new matter is added.

Support for the amendment to Claim 8(e) to recite: "a nucleic acid sequence complementary to a nucleic acid sequence which hybridizes under high stringency..." is found for example, at paragraph [0125] of the specification. No new matter is added.

#### Allowable Subject Matter

The Examiner indicates that claims 8 and claim 9 contain allowable subject matter. The Examiner adds that Applicants are the first to disclose the enzyme of SEQ ID NO:2 from *Pseudomonas chlororaphis* having the ability to convert phenazine-1-carboxylic acid to a 2-hydroxylated phenazine, and that the DNA molecule encoding the claimed enzyme has already been patented in the U.S. as Patent No. 6,737,260.

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**Response to Claim Objections**

The Examiner objects to claim 8 because the abbreviation PhzO was used for the first time in the claims without being expanded. Applicants thank the Examiner for the suggestion. The appropriate correction has been made.

**Response to Rejections Under 35 U.S.C §112 Second Paragraph, Indefiniteness**

Claims 8 and 9 are rejected under 35 U.S.C §112 First Paragraph for alleged failure to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner alleges that claim 8(e) is confusing because whereas SEQ ID NO:1 encodes a polypeptide having PhzO activity, a nucleic acid sequence which hybridizes to SEQ ID NO:1, does not. The Examiner suggests clarifying by reciting in the claim that a sequence that hybridizes to a sequence complementary to SEQ ID NO:1 encodes a polypeptide having PhzO activity. Applicants thank the Examiner for the suggestion. Appropriate corrections have been made.

Finally, the Examiner alleges that claims 8(b) and 9(a) are confusing because the recitation of "an amino acid of SEQ ID NO:2" means that there is not one, but many SEQ ID NO:2. The Examiner suggests correcting the indefinite article "an" and instead reciting: "the amino acid sequence of SEQ ID NO:2". Applicants thank the Examiner for the suggestion. Appropriate corrections have been made.

Applicants respectfully request that the rejection for indefiniteness be reconsidered and withdrawn.

**Response to Rejections Under 35 U.S.C §112 First Paragraph, Written Description**

Claims 8 and 9 are rejected under 35 U.S.C §112 First Paragraph for allegedly failing to meet the written description requirement.

Again, the Examiner alleges that the recitation of "an amino acid of SEQ ID NO:2" means that there is not one, but many SEQ ID NO:2. The Examiner suggests correcting

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the indefinite article "an" and instead reciting: "the amino acid sequence of SEQ ID NO:2".

Applicants thank the Examiner for the suggestion. Appropriate corrections have been made.

Applicants respectfully request that the rejection for alleged lack of written description be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 510-559-6066.

Respectfully submitted,



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